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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,128	11/27/2001	Mitsuo Takeda	ADACHI P215US	9788
20210 7590 10/07/2003				
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151				
EXAMINER				
PHAM, HOA Q				
ART UNIT		PAPER NUMBER		
2877				

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/995,128

Examiner

Hoa Q. Pham

Applicant(s)

TAKEDA ET AL.

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchel et al (5,135,309) in view of Takeda et al (JP-410246612).

Regarding claims 1, 6, 7, and 10-12; Kuchel et al discloses a method and apparatus for non-contact measuring of object surfaces in which the grid patterns comprising a plurality of one-dimensional grids (G_1 , G_2 , G_3 , G_{11} , G_{13} , G_{12} , G_{14}) of different colors, each pair of gratings (G_{11}/G_{13} , G_{12}/G_{14}) having the same period, but the periods of the two pairs of grating being slightly different (figures 2 and 4, column 9, lines 30-43, claims 1-3 and 7). Kuchel et al does not explicitly teach that each of the gratings having a distinctive period and direction; however, such a feature is known in the art as taught by Takeda et al. Takeda et al (of record), from the same field of endeavor, teaches the use of one-dimensional grids (2,3) having different period and

direction (figures 1b and 1c). It would have been obvious to one having ordinary skill in the art to modify the grids of Kuchel et al by using grids of different period and direction as taught by Takeda et al because using grids of different periods and directions would provide good images and increase the speed of the measurement.

Regarding claim 2, it would have been obvious to one having ordinary skill in the art to use grids of different colors such as red, green or blue because they are function in the same manner.

Regarding claims 3 and 8, using a plurality of prisms and a plurality of white light in the topography system is well known in the art. Thus, it would have been obvious to replace the beam splitter cubes (S_{11} and S_{12}) of Kuchel et al by a plurality of prisms because they are equivalent in function.

Regarding claims 4-5, it would have been obvious to one having ordinary skill in the art to modify the grid patterns of Takeda et al such as grid patterns comprise dots or sinusoidal lines because the system would function in the same manner.

Regarding claim 9, see figure 1 of Takeda et al.

Response to Arguments

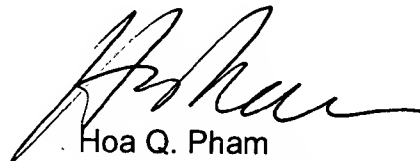
4. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Following references relative to three-dimensional shape measurement: Takata et al (6,559,954) and Hamada (6,369,899).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (703) 308-4808. The examiner can normally be reached on 6:30 AM to 5 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Hoa Q. Pham
Primary Examiner
Art Unit 2877

HP
September 24, 2003